

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

**R.M.S. TITANIC, INC.,
successor-in-interest to
Titanic Ventures, limited partnership,
Plaintiff,**

v.

Civil Action No. 2:93cv902

**THE WRECKED AND ABANDONED VESSEL,
ITS ENGINES, TACKLE, APPAREL,
APPURTENANCES, CARGO, ETC., LOCATED
WITHIN ONE (1) NAUTICAL MILE OF A POINT
LOCATED AT 41 43/ 32' NORTH LATITUDE
AND 49 56' 49" WEST LONGITUDE,
BELIEVED TO BE THE R.M.S. TITANIC
in rem,
Defendant.**

STATUS REPORT

The United States, as *amicus*, and on behalf of its National Oceanic and Atmospheric Administration ("NOAA"), provides the following status update.

Pursuant to Section 113¹ and the NOAA Titanic Guidelines, NOAA has been notified of three potential expeditions to the *Titanic* wreck site.

1. *OceanGate Expeditions, Ltd.*

On April 1, 2019, OceanGate Expeditions, Ltd. ("OceanGate") sent this Court a letter, informing the Court of OceanGate's plans to conduct six week-long "missions" to *Titanic* from

¹ Section 113 of the Consolidated Appropriations Act, 2017, Pub. L. No. 115-31 (May 5, 2017), provides that "no person shall conduct any research, exploration, salvage, or other activity that would physically alter or disturb the wreck or wreck site of the RMS Titanic unless authorized by the Secretary of Commerce per the provisions of the Agreement Concerning the Shipwrecked Vessel RMS Titanic [i.e., the International Agreement]." Department of Commerce Appropriations Act, 2017, Pub. L. 115-31, 131 Stat 135, 192 (2017).

late June to mid-August 2019. ECF No. 544. OceanGate also indicated that it intends to conduct multiple missions over several years to fully document and model the wreck. NOAA sent a letter to OceanGate on April 18, 2019, requesting additional information about OceanGate's plans in order for NOAA to determine whether a Section 113 authorization is required and informing OceanGate that any proposed expedition involving salvage activities, as determined by this Court, may require separate approval from the Court. Exhibit 1.

On April 29, 2019, OceanGate responded to NOAA, indicating that the company "has already provided more information than is legally required to both the U.S. District Court and NOAA" Exhibit 2. OceanGate also refused to supply information regarding the identity, qualifications, experience and responsibilities of its team members "because many of [OceanGate's] active participants are private individuals who value their right to privacy . . . [and whose] identities and profiles are an asset of [OceanGate], entitled to the same legal protection as trade secrets as customer lists and other similar information." NOAA sent OceanGate a follow-up letter on May 20, 2019, expressing NOAA's concern about the potential for individual and/or consecutive missions over the course of several years to alter or disturb the wreck or wreck site, and the agency's inability to assess such proposed missions without additional information pursuant to Section 113 and the NOAA Titanic Guidelines. Exhibit 3. NOAA informed OceanGate that the agency will continue to notify this Court of any projects that may require a Section 113 authorization.

2. *EYOS Expeditions.*

On April 4, 2019, NOAA received a letter from EYOS Expeditions, advising the agency that EYOS intends to conduct three manned submersible dives at the *Titanic* wreck from approximately July 31 to August 4, 2019, and to retrieve and replace long-term test platforms

and recover a small rusticle sample (not exceeding 500 grams). Exhibit 4. According to the letter, EYOS' "plans for 2019 are identical to those of 2018" and EYOS has no intention of interfering with the physical shipwreck or its debris field, or attempt to salvage artifacts. In early June 2018, EYOS provided information pursuant to Section 113. NOAA is presently reviewing that information, which is consistent with the information provided to NOAA in 2018. In general, the project objective for the expedition is to conduct two private dives using a human-occupied vehicle, with no intent of interfering with the shipwreck or wreck site, and to collect standard definition imagery. NOAA is following up with EYOS to clarify whether EYOS intends to recover just one platform/tray, as it proposed in 2018 and as was authorized by the Court's September 27, 2018 order, or whether EYOS intends to recover more than one platform/tray as suggested in its April 4, 2019 letter.

NOAA has reminded EYOS of this Court's constructive *in rem* jurisdiction and of RMST's salvor-in-possession status. NOAA has encouraged EYOS to notify both this Court and RMST of its plans to ensure they are not deemed to be contrary to either the Court's jurisdiction, or RMST's salvor status, and to seek an order from the Court, as deemed necessary by this Court.

3. *R.M.S. Titanic, Inc.*

RMST contacted NOAA on April 5, 2019, informing the agency that RMST intends to conduct a short expedition to the *Titanic* wreck site, around the last week of May 2019 to the first week of June 2019, to test a new virtual reality camera system mounted on an ROV, to create a baseline map of *Titanic's* bow area, and to potentially recover an artifact from the debris field. On April 18, 2019, NOAA sent a letter to RMST requesting additional information about RMST's plans. Exhibit 5. In its May 7, 2019 response letter, RMST indicated that it likely will

not conduct an expedition in May 2019 but still hopes to conduct an expedition later in the season or in 2020. Exhibit 6.

Respectfully submitted,

G. Zachary Terwilliger
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of May, 2019, I will electronically file the foregoing document with the Clerk of Court using the CM/ECF system, which will then send a notification of electronic filing (NEF) to the following:

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/s/ Kent P. Porter

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